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*Exempt from filing fees pursuant to
Government Code, section 6103*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

**THE PEOPLE OF THE STATE OF
CALIFORNIA, EX. REL. XAVIER
BECERRA, ATTORNEY GENERAL OF
THE STATE OF CALIFORNIA,**

Plaintiff,

v.

**BARSTOW UNIFIED SCHOOL
DISTRICT,**

Defendant

Case No. **20STCV32328**

**COMPLAINT FOR INJUNCTIVE
RELIEF**

1 The People of the State of California, by and through Xavier Becerra, Attorney General of
2 the State of California, allege on information and belief as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over the allegations and subject matter of the People's
5 Complaint filed in this action and the parties to this action; venue is proper in this County; and
6 this Court has jurisdiction to enter this Judgment.

7 **PARTIES**

8 2. Plaintiff Xavier Becerra is the Attorney General of the State of California. The
9 Attorney General is the chief law officer of the state and has the duty to see that the State's laws
10 are uniformly and adequately enforced for the protection of public rights and interests. (Cal.
11 Const., art. V, § 13.)

12 3. Defendant Barstow Unified School District (Defendant or the District) receives state
13 funds, is a public school district organized and existing under the laws of the State of California,
14 and is responsible for providing public education to District students.

15 **FACTUAL BACKGROUND**

16 4. The right to education is a fundamental right, and students have the right to equal
17 protection with respect to its provision. (*Serrano v. Priest* (1971) 5 Cal. 3d 584, 608-09, 616-17.)
18 The Attorney General has the authority, in his or her sole discretion, to bring claims against a
19 school district for violation of the California Constitution, Article 1, section 7, or where the
20 district has failed to ensure that all students, regardless of race, color, national origin, ethnicity, or
21 disability, are treated equally in all aspects of education. (Educ. Code, §§ 220, 262.3, & 262.4.)

22 5. The Attorney General has the authority, in his or her sole discretion, to bring claims
23 against a school district for violation of the Government Code section 11135, where the district is
24 unlawfully denying students full and equal access to the benefits of, or unlawfully subjecting
25 students to discrimination under, its programs and activities on the basis of, *inter alia*, race, color,
26 ancestry, national origin, ethnic group identification, mental disability, physical disability, or
27 medical condition. (Gov. Code, § 11135(a).) With respect to discrimination based on disability,
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the District is subject to the protections and prohibitions contained in state law. (Gov. Code, § 11135(b).)

A. Disproportionate and Exclusionary School Discipline are Associated with Negative Outcomes.

6. Exclusionary school discipline is ineffective in addressing student behavior, is harmful to students, and often has a disproportionate impact on students of color and students with disabilities. Greater use of exclusionary school punishments does not help to improve student behavior either among the students being punished or among the general school population.¹ Instead, evidence shows that being suspended predicts greater rates of criminal offending among youth years later, even after accounting for the initial student behaviors.²

7. Suspension and expulsion put students at greater risk of a host of negative outcomes, including school failure, grade retention, future unemployment, and future involvement with the justice system.³ When students miss instructional time for misbehavior, they fall behind academically and become less engaged in their school and their education.⁴

¹ See Kupchik, *The Real School Safety Problem: The Long-Term Consequences of Harsh School Punishment* (2016) pp. 23-27.

² Mowen et al., *The Effect of School Discipline on Offending Across Time* (July 12, 2019) Justice Quarterly.

³ Rosenbaum, *Educational and Criminal Justice Outcomes 12 Years After School Suspension* (Jan. 17, 2018) Youth & Soc'y (finding that suspended youth were less likely to have graduated from college or high school, and were more likely to have been arrested and on probation); Morris & Brea, *The Punishment Gap: School Suspension and Racial Disparities in Achievement* (Feb. 1, 2016) 63(1) J. Soc. Probs. 1 (finding that school suspensions account for approximately one-fifth of black-white differences in school performance; stating that findings suggest exclusionary school punishment hinders academic growth and contributes to racial disparities in achievement); Perry & Morris, *Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools* (Nov. 5, 2014) 79 Am. Soc. Rev. 1067 (finding that high levels of exclusionary discipline within schools threaten the academic success of all students, including those who have never been suspended); The Council on State Gov't & Pub. Policy Research Inst. at Tex. A&M Univ., *Breaking Schools' Rules: A Statewide Study on How School Discipline Relates to Students' Success and Juvenile Justice Involvement* (July 2011), (comprehensive longitudinal study in Texas showing that even one out-of-school suspension made it five times more likely for a student to drop out and three times more likely for the student to enter the juvenile justice system within one year, when compared to similar students).

⁴ Arcia, *Achievement and Enrollment Status of Suspended Students: Outcomes in a Large Multicultural School District* (May 1, 2006) 38 Educ. & Urb. Soc'y 359 (identifying a correlation between suspension and school avoidance, diminished educational engagement, and decreased academic achievement).

1 8. The harms of overusing exclusionary school punishment extend beyond the
2 individual students who are punished. Empirical research shows that schools with relatively high
3 rates of suspensions tend to have worse academic scores for other students, even when
4 statistically controlling for other predictors of student achievement.⁵

5 9. Studies consistently find that youth of color, particularly African-American youth, are
6 disproportionately reported for disciplinary incidents and subjected to exclusionary punishments,
7 even when controlling for student misbehavior.⁶ The most substantial racial disparities in school
8 punishment tend to be for more subjectively defined infractions, such as defiance of authority,
9 disruption, or disorderly conduct, rather than more serious and objectively defined infractions
10 such as fighting.⁷

11 10. Studies have also shown that students with learning and behavioral disabilities are at
12 greater risk than others of being reported for school discipline.⁸

13 11. Schools throughout California have begun to incorporate positive behavior
14 intervention and supports, restorative justice practices, and other strategies laid out in the
15 Education Code to focus on addressing the root causes of student misconduct, to keep students in
16 schools and learning, and to minimize school removals and involvement with the juvenile justice
17 system. Schools in California have focused on addressing disparities in discipline to ensure that
18 certain groups of students are not subjected to disproportionate disciplinary consequences or
19 treated more harshly as compared to their similarly situated peers.

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22 ⁵ Perry & Morris, *Suspending Progress: Collateral Consequences of Exclusionary*
23 *Punishment in Public Schools* (2014) 79 Am. Soc. Rev. 1067.

24 ⁶ U.S. Dep't of Ed. Office for Civil Rights, Civil Rights Data Collection: Data Snapshot
25 (School Discipline), Issue Brief No. 1 (2014); General Accounting Office (2018) *K-12*
Education: Discipline disparities for black students, boys, and students with disabilities (GAO-
18-258); Rocque & Paternoster, *Understanding the Antecedents of the 'School-to-Jail' Link: The*
relationship between race and school discipline (2011) 101 The J. of Crim. L. & Criminology
633, 653-54.

26 ⁷ Skiba et al., *Parsing Disciplinary disproportionality: Contributions of infraction,*
27 *student, and school characteristic to out-of-school suspension and expulsion* (2014) 51 Am. Ed.
R. J. 640.

28 ⁸ Krezmien et al., *Suspension, Race, and Disability: Analysis of statewide practices and*
reporting (2006) 14 J. of Emotional and Behavioral Disorders 217.

1 **B. District Discipline Policies and Practices Result in Different Treatment and**
2 **Disproportionate Impact.**

3 12. In May 2019, the Attorney General's office began an investigation to determine
4 whether the District's policies, procedures, and practices with respect to discipline violated any
5 California laws, specifically those laws protecting students from discrimination based on a
6 protected characteristic and other laws that provide for a state constitutional right to education,
7 other means of correction prior to school removal, and due process protections for students.

8 13. In April 2020, after a comprehensive investigation of the District's policies,
9 procedures, and practices focusing on the 2016-2017 school year through the first semester of the
10 2019-2020 school year, the Attorney General's office found that the District's policies,
11 procedures, and practices with respect to discipline discriminated against African-American
12 students and students with disabilities.

13 14. In addition, the Attorney General's office concluded that: (a) the District's admissions
14 and enrollment processes for the District's STEM Academy have denied African-American and
15 low-income students equal access to educational opportunity on the basis of race and income; (b)
16 the District has failed in practice to provide legally required other means of correction prior to
17 issuing suspensions for specified offenses as required by state law; and (c) the District has not
18 provided a legally compliant response to notice of discrimination, including harassment, on the
19 basis of protected characteristics for some students.

20 15. Lastly, the Attorney General's investigation found that District policies and
21 procedures were non-compliant with certain aspects of state law that prohibit informal and
22 undocumented school removals, reduced school day attendance as punishment, and certain
23 suspensions of Kindergarten through third grade students for disruption and defiance.

24 16. The Parties have worked cooperatively to agree to a remedial plan that includes
25 among other things: (1) a five-year term; (2) changes to school discipline policies and practices to
26 bring them into compliance with state law and to address discrimination and disproportionality in
27 discipline; (3) ongoing analysis of school discipline and achievement data to address root causes
28 of discrimination in discipline, consistently implement positive other means of correction, and

1 develop individualized behavior support plans; (4) implementation of a system of culturally
2 responsive, multi-tiered supports and interventions; (5) training for staff on manifestation
3 determination meetings, positive behavior intervention plan creation and implementation, and
4 reasonable accommodations; (6) appointment of school-site special education liaisons dedicated
5 to providing support, training, and assistance to parents of students with disabilities during special
6 education and Section 504 processes; (7) revisions to policies and practices for responding to
7 discrimination and harassment complaints to comply with state law requirements; and (8) review
8 of admission and enrollment process for the STEM Academy to reduce significant disparities in
9 admissions for African-American students. The District has begun to take positive steps to revise
10 policies and eliminate punitive discipline practices at its school-sites and is committed to
11 addressing bias and discrimination in all of its forms.

12 17. The Attorney General's investigation included a review of the District's disciplinary
13 data for the 2016-2017, 2017-2018, and 2018-2019 school years—data collected and
14 administered by the District. The Attorney General's review of this data demonstrated that the
15 District's use of exclusionary punishment is excessive. The District routinely uses suspension to
16 respond to relatively minor student behavior, such as disruptive or defiant behavior, and the
17 majority of reported incidents for which punishments were recorded are for behavior categorized
18 by the District as disruptive or defiant, including use of vulgar or obscene language.

19 18. The Attorney General's review of the District's own data also demonstrated that
20 under the District's discipline policies and practices, African-American students are significantly
21 and substantially more likely than other students with similar disciplinary histories to be reported
22 for an incident, to be punished with an out-of-school suspension, and to receive more days of
23 punishment for similar offenses. African-American elementary school students were 3.5 times
24 more likely, and African-American middle and high school students were 79 and 78 percent,
25 respectively, more likely, to be suspended out of school than similarly situated White students.
26 The rate of days punished for African-American elementary school students was 5.9 times higher
27 than that of similarly situated White students, and the rate of days punished for disruptive and
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defiant behavior for African-American students was 168 percent greater in elementary schools, 37.9 percent greater in middle schools, and 54.5 percent greater in high schools.

19. The District's own data demonstrated that African-American students in the District are also disciplined more often for subjective offenses than other students, with African-American high school students 72 percent more likely to receive a suspension for disruption and defiance than similarly situated White students.

20. The District's own data demonstrated that District students with disabilities were also substantially more likely to be reported for a discipline incident, and were at greater risk of suspension out of school and for more days than similarly situated students without disabilities. For example, high school students with disabilities were 2.3 times more likely to be suspended for a reported incident when compared to students without disabilities. African-American students with disabilities are at even greater risk of incident reports and suspensions.

21. An analysis of the District's data found that school punishments in the District result in a significant loss of instructional time that disproportionately impacts African-American students. In the District, during 2018-2019, African-American students lost 99.3 days of instruction in elementary school, 125.8 days of instruction in middle school, and 133.9 days of instruction in high school per 100 enrolled students. Whereas, during 2018-2019, White students lost 9.9 days of instruction in elementary school, 32.3 days of instruction in middle school, and 40.6 days of instruction in high school per 100 enrolled students.

22. School punishments in the District have a quantifiable adverse educational impact beyond the loss of instructional time. In the District, elementary school students who have been suspended, on average, score 48.8 points lower on math and 50.6 points lower on their English Language Arts assessment. Similarly, the class rank of suspended middle school students is 24.3 percent lower, and the class rank of suspended high school students is 25.9 percent lower, than students who were not suspended.

23. Statewide data also suggest that the District's punitive discipline practices have a particularly acute impact on African-American students, who experience the greatest disproportionality in discipline. For example, in the 2018-2019 Local Control and Accountability

1 Plan, the District identified that the academic scores of African-American students were far below
2 the District average, and below any other racial or ethnic student group in the District.

3 24. In an even more recent Local Control Accountability Plan, the District identified
4 reduction of its high suspension rate as one of its greatest needs and described factors causing the
5 high rate, which included “classroom management, attendance rates, student achievement, school
6 culture and discipline policies.”

7 25. There are comparable effective alternatives that would meet the District’s educational
8 goals with less burden on African-American students and students with disabilities, such as
9 incorporating social-emotional learning practices into the curriculum and improving instructional
10 practices to focus on student engagement, cultural relevance, and opportunities for practice and
11 feedback.

12 26. Despite the significant disparities described above and the negative effects thereof,
13 District administrators do not regularly review disaggregated disciplinary data to identify and
14 ameliorate disparities. Nor are staff adequately trained on alternative positive behavioral
15 strategies set forth in state law, resulting in inconsistent implementation of these policies and
16 inadequate tools to address unequal treatment in discipline and improve school climate and
17 cultures.

18 **C. The District Did Not Adequately Respond to Allegations of Discrimination for Some**
19 **Students.**

20 27. The Attorney General’s investigation identified that the District has been on notice of
21 discrimination, including harassment and bullying that may have subjected some students to a
22 hostile environment on the basis of protected characteristics, but the District did not provide a
23 prompt and adequate response. With respect to one matter, the investigation did not identify
24 evidence that the District had investigated or adequately responded to the allegation of
25 discrimination or had utilized the required state law Uniform Complaint Procedure process, which
26 includes a written report of findings and the right to appeal.

27 28. A review of District data also shows that the District does not regularly issue final
28 written decisions to complainants that include findings of fact, corrective actions, a disposition,

1 and a right to appeal as required by state law Uniform Complaint Procedures. (Ed. Code, §
2 33315; Cal. Code Regs., tit. 5, § 4610 et seq.) Witness testimony raised concerns that the District
3 is not consistently providing legally required translation and interpretation services as needed for
4 parents and guardians raising complaints.

5 **D. Important Aspects of District Discipline Policies and Practices Fail to Comply with**
6 **State Law.**

7 29. The Attorney General's investigation also found that important aspects of the
8 District's disciplinary policies are inconsistent with state law.

9 30. Several District discipline documents reflect that the District's policies do not
10 consistently provide other means of correction prior to suspension, even though required for
11 certain offenses under state law. In practice as well, the District does not consistently provide
12 students other legally required means of correction required before suspension. Evidence
13 reviewed shows that students were most often suspended instead of provided alternative means of
14 correction, such as team assessments and plans, referral for counseling or special education
15 assessment, community service, positive behavior interventions and supports, and trauma-
16 informed, restorative justice, and/or social emotional programming. When the District provided
17 alternatives to suspension, the majority were punitive in nature (e.g., 15.6% detention, 9% loss of
18 privilege, 2.0% "sent home", 31.7% behavior management contract with penalty for non-
19 compliance).

20 31. The District does not consistently record and track in-school removals as in-school
21 suspensions. The District also does not consistently provide students placed in in-school
22 suspension with appropriate access to counseling services or promote their completion of
23 schoolwork and tests missed, in violation of state law.

24 32. The Attorney General's investigation found that the District has a policy and practice
25 of sending students home from school for one or more days without proper documentation or due
26 process, which is contrary to state law requiring tracking of suspension days and placing a
27 maximum on the total number of suspension days for each student per year. Some witnesses
28 identified that this practice of informal suspension is on the rise. The Attorney General's

1 investigation also found that some schools in the District have a practice of placing students on a
2 permanently reduced school schedule as a form of punishment, which is inconsistent with state
3 law requirements and, for students with disabilities, can result in the unlawful denial of required
4 special education instruction and services.

5 33. During the 2016-2017 through 2018-2020 school years, more than 30 students in
6 grades Kindergarten through third grade received suspensions for disruptive and defiant behavior,
7 which is inconsistent with state law prohibiting suspension for this offense for students in these
8 grades. Approximately 70 percent of the students who received such suspensions were African-
9 American.

10 34. The Attorney General's investigation found that the District's practice of issuing
11 several-hundred-dollar citations to students for low-level misbehavior at school, such as cursing
12 and truancy, may have a significant, disproportionate adverse impact on low-income families.

13 35. The Attorney General's review of disciplinary data demonstrated disproportionate
14 rates of school suspension for District students with disabilities. District students with disabilities
15 were substantially more likely to be reported for a discipline incident, and were at greater risk of
16 suspension out of school and for more days than similarly situated students without disabilities.
17 For example, students with disabilities at Barstow High were 2.3 times as likely to be suspended
18 when compared to students without disabilities.

19 36. District policies and practices that do not comply with state law contribute to this
20 disproportionality. The District's written policy for students with disabilities violates state law
21 because it permits ten days of consecutive suspension for a single incident of misconduct, even
22 though the state law maximum is five days.

23 37. The District's policies, practices, and processes for providing equal access to
24 necessary services to students with disabilities and ensuring students with disabilities are not
25 denied equal access to education are inadequate. For example, while records showed multiple
26 students with disabilities suspended for more than ten days during the school year, the District
27 acknowledged that manifestation determination meetings had not been consistently held. And
28 student files reviewed revealed that several students, including students who had been suspended,

1 were denied full and equal access to education because of their disabilities, including failure to
2 provide procedural protections, reasonable accommodations, and modifications.

3 **E. The District’s Admissions and Enrollment Policies for the District’s STEM Academy**
4 **Have a Discriminatory Disparate Impact on African-American and Low-Income**
5 **Students.**

6 38. The District has two middle school programs—Barstow Junior High and Barstow
7 STEM Academy. The Attorney General’s investigation found that Barstow STEM Academy
8 provides a higher quality of instruction and academic enrichment programs for students and has
9 additional resources that are not available to the students at Barstow Junior High. Witnesses
10 reported that Barstow Junior High had been higher performing until the 2014 establishment of the
11 STEM Academy, which is seen by many as the “elite” school where White and higher income
12 parents “segregate” their children.

13 39. The District’s admissions and enrollment policies and procedures are having a
14 disproportionate adverse impact on African-American and low-income students’ access to the
15 District’s high quality STEM Academy. During the 2016-2017 through 2018-2019 school years,
16 only 4.83 percent of STEM Academy students were African-American, even though 23.7 percent
17 of Barstow Junior High students were African-American. And, whereas 26.6 percent of STEM
18 Academy students were White, only 17.3 percent of Barstow Junior High students were White.
19 Similarly, only 45-48 percent of STEM Academy students were designated as low-income, even
20 though 89-94 percent of students in the District were designated as low-income during that
21 period.

22 40. The Attorney General’s investigation found a significant difference in the quality of
23 instructional practices between the two middle schools. In general, instruction provided to
24 students at Barstow Junior High is far less engaging and rigorous than the instruction provided to
25 students at the STEM Academy. Teachers must apply to teach at the STEM Academy, which
26 generally leads to the school receiving the District’s strongest teachers. The STEM Academy has
27 lower student-teacher ratios than Barstow Junior High and has additional resources, including
28 more space for students in classrooms, more per capita counseling services, and better recess
equipment. While Barstow Junior High has a significantly higher enrollment and more reported

1 social, emotional, and behavioral issues, the STEM Academy receives an allocation of mental
2 health support that results in more mental health support per student enrolled than at Barstow
3 Junior High.

4 41. Significant differences in the administration of discipline between Barstow Junior
5 High and STEM Academy are also adversely affecting youth at Barstow Junior High, particularly
6 African-American youth. At Barstow Junior High, 20.6 percent of all students and 35.9 percent
7 of African-American students are suspended out of school, compared to only 3.1 percent of all
8 students and 7.1 percent of African-American students at the STEM Academy. These differences
9 are at least in part attributable to differences in resources, instructional practices, and staff
10 expectations for and perceptions of the student population.

11 42. These aforementioned disparities in instructional and teaching quality, resources, and
12 discipline practices, among others, result in a quality of education at Barstow Junior High that is
13 inferior as compared to the STEM Academy.

14 43. There are comparable, effective alternatives to the District's admissions and
15 enrollment policies with less burden on affected student groups, which include revisiting the
16 STEM Academy application and acceptance criteria to be more inclusive of all of the District's
17 students.

18 **F. Proposed Resolution by the Parties**

19 44. Since May 2020, the Parties have negotiated in good faith on numerous changes to
20 policy and procedure and have come to an agreement to address the findings of the investigation.
21 The District has already begun to make changes to its policies, procedures, and practices and is in
22 the process of implementing several of the terms agreed upon by the parties. Plaintiff now seeks
23 an order requiring the District to implement the agreed-upon reforms and respectfully requests
24 that the Court enter Judgment as set forth in the proposed Stipulated Judgment.

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1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **(Violation of Education Code sections 200 et seq. and 33315)**

4 45. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
5 as though they were fully set forth in this cause of action.

6 46. Education Code section 220 prohibits discrimination based on race, color, national
7 origin, sex, gender, disability, and ethnicity in state-funded programs and activities.

8 47. When a school district receives notice of an allegation of potential discrimination,
9 harassment, bullying, or retaliation on the basis of a protected characteristic, such as race or
10 disability, Education Code section 33315 requires the District to investigate and to provide a
11 timely and effective response to end the discrimination, harassment, or retaliation, prevent its
12 recurrence, and remedy the effects using the Uniform Complaint Procedures.

13 48. The Uniform Complaint Procedures require an independent investigation, an
14 opportunity for the complainant and respondent to present and respond to evidence, a written
15 decision of finding, and a right to appeal to the California Department of Education. (Ed. Code, §
16 33315; Cal. Code Regs., tit. 5, §§ 4610, et seq.)

17 49. Defendant has violated the Education Code section 200 et seq. by subjecting African-
18 American students to discrimination with respect to disproportionate disciplinary punishments
19 and with respect to the length of such punishments, which has resulted in adverse impacts on such
20 students.

21 50. Defendant has violated Education Code section 200 et seq. by subjecting similarly
22 situated African-American students to higher numbers of punishments and harsher punishments
23 than similarly situated students of other races and ethnicities for similar offenses.

24 51. Defendant's admissions and enrollment policies and practices with respect to its high-
25 quality STEM Academy, and its resource allocation practices with respect to Barstow Junior High
26 School as compared to the STEM Academy, have resulted in the disproportionate placement of
27 African-American students in inferior education settings. The District has not taken feasible steps
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1 to alleviate this harm, resulting in a denial of equal educational opportunity in violation of
2 Education Code section 200 et. seq.

3 52. Defendant has violated Education Code sections 200 et seq. and 33315 by failing to
4 provide a prompt, adequate, and procedurally compliant response to notice of discrimination or
5 harassment on the basis of protected characteristics to some students in the District.

6 53. Due to Defendant's violations of Education Code sections 200 et seq. and 33315, and
7 their implementing regulations, injunctive relief is an appropriate remedy.

8 **SECOND CAUSE OF ACTION**

9 **(Violation of California Constitution, Article 1, section 7)**

10 54. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
11 as though they were fully set forth in this cause of action.

12 55. Following an investigation carried out pursuant to his discretionary authority as the
13 state's chief law officer, the Attorney General has determined that Defendant has violated the
14 California Constitution, Article 1, section 7, by not satisfying its affirmative obligation to
15 implement programs that avoid discriminatory results through its knowingly subjecting African-
16 American students to discrimination with respect to disproportionate disciplinary punishments
17 and the length of such punishments, without implementing feasible remedies when it should have
18 been aware of and addressed these results. These disproportionate punishments result in changes
19 in classroom settings and sometimes the imposition of shortened school days, impacting the
20 amount or quality of instruction received by these students and resulting in other cognizable
21 education harms. Such disproportionate punishments by Defendant are not necessary to meet an
22 important education goal and other options exist for the District with less of an adverse impact on
23 African-American students.

24 56. Following an investigation carried out pursuant to his discretionary authority as the
25 state's chief law officer, the Attorney General has determined that Defendant has violated the
26 California Constitution, Article 1, section 7, by not satisfying its affirmative obligation to
27 implement programs that avoid discriminatory results through knowingly subjecting similarly
28 situated African-American students in the District to higher numbers of punishments and harsher

1 punishments than similarly situated students of other races or ethnicities in the District for similar
2 offenses, and without implementing feasible remedies when it should have been aware of and
3 addressed these results. These disproportionate punishments result in changes in classroom
4 settings and sometimes the imposition of shortened school days, impacting the amount or quality
5 of instruction received by these students.

6 57. Following an investigation carried out pursuant to his discretionary authority as the
7 state's chief law officer, the Attorney General has determined that Defendant's admissions and
8 enrollment policies and practices with respect to its high-quality STEM Academy, and its
9 resource allocation practices with respect to its Junior High School as compared to its STEM
10 Academy, have resulted in the disproportionate placement of African-American students and low-
11 income students in inferior education settings. The Attorney General has determined that
12 Defendant has violated the California Constitution, Article 1, section 7, by not satisfying its
13 affirmative obligation to implement programs that avoid discriminatory results through its
14 knowingly administering admissions and enrollment policies and practices that have resulted in
15 the disproportionate placement of African-American students and low-income students in inferior
16 education settings, and without implementing feasible remedies when it should have been aware
17 of and addressed these results.

18 58. Due to Defendant's violations of the California Constitution, injunctive relief is an
19 appropriate remedy.

20 **THIRD CAUSE OF ACTION**

21 **(Suspensions in Violation of Education Code section 48900 et seq.)**

22 59. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
23 as though they were fully set forth in this cause of action.

24 60. Education Code section 48900 et seq. prohibits school removals and in-school
25 suspensions without providing due process, appropriate documentation, and reporting, and
26 following maximum day and per year limitations. Short- or long-term reduction in the school day
27 as punishment for offenses without a formal expulsion process and suspensions of Kindergarten
28 through eighth grade students for the offense of disruption and willful defiance are not permitted.

1 61. Education Code section 48900.5 requires that other means of correction be attempted
2 prior to suspension of a student and prohibits suspension upon a first offense, except for certain
3 specifically defined offenses or where a student's presence causes a danger to persons.

4 62. Defendant has violated Education Code section 48900 et seq. by sending students
5 home from school and limiting their instructional time without required due process,
6 documentation, reporting, and adherence to maximum day and per year limitations, and by
7 suspending some Kindergarten through third grade students for the offense of disruption and
8 willful defiance.

9 63. Defendant has violated Education Code section 48900.5 by failing to consistently
10 provide other means of correction prior to suspension of a student and by permitting suspension
11 upon the first offense for offenses for which suspension upon a first offense is not permitted.

12 64. Due to Defendant's violations of the California Education Code sections 48900 et
13 seq. and implementing regulations, injunctive relief is an appropriate remedy.

14 **FOURTH CAUSE OF ACTION**

15 **(Failure to Provide Services During In-School Suspension in Violation of Education Code**
16 **section 48911.1)**

17 65. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
18 as though they were fully set forth in this cause of action.

19 66. Education Code section 48911.1 requires that students assigned to supervised
20 suspension classrooms be provided access to counseling services, schoolwork, and tests missed.
21 It also requires proper documentation and reporting of students assigned to supervised suspension
22 classrooms as an in-school suspension.

23 67. Defendant has violated Education Code section 48911.1 by failing to consistently
24 provide students assigned to in-school suspension access to counseling, schoolwork, and tests
25 missed, and by failing to properly document and report in-school suspensions.

26 68. Due to Defendant's violations of the California Education Code section 48911.1 and
27 implementing regulations, injunctive relief is an appropriate remedy.

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1 **SIXTH CAUSE OF ACTION**

2 **(Abrogation of the Rights of Students with Disabilities in Violation of Government Code**
3 **section 11135 and Education Code sections 220 and 48911)**

4 69. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
5 as though they were fully set forth in this cause of action.

6 70. Government Code section 11135 prohibits discrimination based on disability in state-
7 funded programs and activities, including prohibiting unlawful denial of full and equal access to
8 the benefits of and unlawful discrimination under any such program or activity receiving funding
9 or financial assistance from the state. Government Code section 11135 incorporates requirements
10 that agencies that receive state funding to provide students with disabilities and suspected
11 disabilities with procedural protections, reasonable accommodations, and modifications.

12 71. Government Code section 11135 prohibits schools from punishing students based on
13 disability.

14 72. Education Code section 220 contains similar requirements to ensure non-
15 discrimination with respect to students with disabilities.

16 73. Education Code section 48911 prohibits suspensions by a principal of longer than five
17 days based on a single incident.

18 74. Defendant is responsible for providing public education to District students, including
19 students with disabilities.

20 75. Defendant has violated Education Code section 48911 by establishing policies and
21 procedures permitting suspensions of students with disabilities for longer than five days for a
22 single incident of misconduct.

23 76. Defendant has violated Government Code section 11135 and Education Code section
24 220 by failing to actively and systemically seek out individuals with exceptional needs who reside
25 in the District and to identify, locate, and assess such students in order to plan for an educational
26 program that will meet their unique needs and ensure that such students are receiving the
27 appropriate evaluations, specialized supports, and a determination as to whether behaviors
28 resulting in removals, as specified above, are a manifestation of their disabilities, which has

1 contributed to unequal treatment with respect to imposition of discipline for students with
2 disabilities.

3 77. Defendant has violated Government Code section 11135 and Education Code section
4 220 by failing to consider consistently the use of positive behavioral interventions and supports
5 for students with disabilities to address behavioral issues.

6 78. As a direct and proximate result of Defendant's violations, District students with
7 disabilities have suffered or may suffer irreparable harm.

8 79. Due to Defendant's violations of the Government Code section 11135 and California
9 Education Code sections 220 and 48911, injunctive relief is an appropriate remedy.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff respectfully prays for the Court to enter judgment as follows:

12 80. For the Court to issue an order enjoining Defendant from engaging in the unlawful
13 practices challenged in this Complaint, requiring Defendant to implement the injunctive relief
14 provisions as set forth in the proposed Stipulated Judgment, and entering final judgment;

15 81. For the Court to exercise, pursuant to the terms of the Stipulated Judgment,
16 continuing jurisdiction over this action to ensure that Defendant complies with the judgment as
17 set forth in the proposed Stipulated Judgment; and

18 82. For such other and further relief as the Court deems just and proper.

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1 Dated: August 25, 2020

Respectfully Submitted,

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